

ORDER NO. 2602

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Tony Hammond, Vice Chairman;
Mark Acton;
Ruth Y. Goldway; and
Nanci E. Langley

Procedures Related to Commission Views

Docket No. RM2015-14

NOTICE OF PROPOSED RULEMAKING

(Issued July 21, 2015)

I. INTRODUCTION

This rulemaking addresses the Commission's process for developing views to the Secretary of State on certain international mail matters pursuant to 39 U.S.C. 407(c)(1).

The Commission develops its views mainly in the context of the United States' membership in the Universal Postal Union (UPU), the Secretary of State's lead role in international mail matters, and UPU procedures for regulating international mail. For purposes of developing its views, the Commission focuses on those proposals that could affect a market dominant rate or classification.

II. NEW COMMISSION RESPONSIBILITY UNDER THE POSTAL
ACCOUNTABILITY AND ENHANCEMENT ACT (PAEA)

Under section 407(c)(1) of the PAEA, the Secretary of State, before concluding a treaty, convention, or amendment establishing a market dominant rate or classification, shall request the Commission's views on the consistency of such rate or classification

with modern rate-setting criteria.¹ In the context of the UPU, the term "rate" typically refers to terminal dues.²

Since enactment of the PAEA, the Secretary of State has requested — and the Commission has transmitted — its views on relevant proposals considered at two UPU Congresses.³ The Commission also has transmitted views to the Secretary of State on relevant proposals considered at the initial meeting of the Postal Operations Council following the 2008 and 2012 Congresses.⁴

III. THE PROPOSED RULES

The development of the Commission's views entails review and analysis of numerous proposals, which typically are posted on the UPU website pursuant to a series of deadlines that begin about 6 months before a Congress convenes. In July 2012, based on an interest in obtaining public input, the Commission established a public inquiry docket to solicit comments on the general principles that should guide the development of its views in response to the anticipated request from the Secretary of State.⁵

The Commission proposes formalizing the general approach it adopted in 2012 by enacting rules providing for establishment of an umbrella public inquiry docket

¹ See Postal Accountability and Enhancement Act, Pub. L. 109-435, 120 Stat. 3198 (2006), section 405(a). 39 U.S.C. 407(c)(1) refers to a product subject to subchapter I of chapter 36 of the title 39, United States Code. A product subject to the referenced chapter is a market dominant product. Section 407(c)(1) also refers to the standards and criteria established by the Commission under section 3622. In this Order, the phrase "modern rate regulation" is used in place of statutory language referring to standards and criteria established pursuant to 39 U.S.C. 3622.

² Terminal dues are the fees paid among postal operators for the processing and delivery of inbound letters, large envelopes, and small packets weighing up to 4.4 pounds. They are set every 4 years by the UPU.

³ The first UPU Congress following enactment of the PAEA was held in July 2008 in Geneva, Switzerland; the second was held in September and October 2012 in Doha, Qatar.

⁴ In addition, the Commission has posted supplemental views on its website.

⁵ See Docket No. PI2012-1, Order No. 1420, Notice Providing Opportunity to Comment on Development of Commission Views Pursuant to 39 U.S.C. 407(c)(1), July 31, 2012. Comments submitted in that docket are available on the Commission's website.

associated with each UPU Congress and related meetings. Each docket will be established on or about 150 days before the date the UPU Congress is scheduled to convene. This timeframe is designed to allow adequate time for commenters to prepare submissions (on general principles or on specific proposals, to the extent such proposals are available). It also should allow the Commission sufficient time to consider the comments and prepare its views.

The proposed rules also reflect the Commission's commitment to having the public inquiry docket serve as a mechanism for handling related matters, such as informing the public about the availability of relevant proposals, the Commission's views, or other documents. It also allows available documents to be incorporated into one comprehensive record for improved public accessibility.

The Commission proposes to establish comment deadlines on a docket-by-docket basis, consistent with timely submission of views to the Secretary of State. Due to time constraints, the Commission does not propose inviting reply comments. The Commission may suspend solicitation of comments if it determines that seeking comments would interfere with timely submission of Commission views.

IV. SECTION-BY-SECTION ANALYSIS

Proposed Rule 3017.1. This section sets out two definitions.

Proposed Rule 3017.2. This section describes the purpose of the rules.

Proposed Rule 3017.3. This section addresses the public inquiry docket.

Proposed Rule 3017.4. This section addresses comment deadlines.

Proposed Rule 3017.5. This section addresses the Commission's use of public comments.

V. ADMINISTRATIVE ACTIONS

The Commission establishes Docket No. RM2015-14 for consideration of matters raised in this Order. Pursuant to 39 U.S.C. 505, the Commission designates Laura Zuber to serve as an officer of the Commission (Public Representative) in this

proceeding. The Commission invites public comment on the proposed rules. Initial comments are due no later than 30 days from the date of publication of this Order in the *Federal Register*. Reply comments are due no later than 45 days from the date of publication of this Order in the *Federal Register*.

VI. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. RM2015-14 for consideration of the matters raised in this Order.
2. Comments are due no later than 30 days after date of publication in the *Federal Register*. Reply comments are due no later than 45 days after date of publication in the *Federal Register*.
3. Pursuant to 39 U.S.C. 505, the Commission appoints Laura Zuber to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.
4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Ruth Ann Abrams
Acting Secretary

List of Subjects in 39 CFR Part 3017

Administrative practice and procedure, International agreements, Postal Service.

For the reasons discussed in the preamble, the Commission proposes to amend chapter III of title 39 of the Code of Federal Regulations as follows:

1. Add part 3017 to read as follows:

Part 3017—PROCEDURES RELATED TO COMMISSION VIEWS

Sec.

3017.1 Definitions in this part.

3017.2 Purpose.

3017.3 Establishment and scope of public inquiry docket.

3017.4 Comment deadline(s).

3017.5 Commission discretion as to impact of public comments on its views.

Authority: 39 U.S.C. 407; 503.

§ 3017.1 Definitions in this part.

(a) *Modern rate regulation* refers to the standards and criteria the Commission has established pursuant to 39 U.S.C. 3622.

(b) *Views* refers to the opinion the Commission provides to the Secretary of State in the context of certain Universal Postal Union proceedings on the consistency of a proposal affecting a market dominant rate or classification with modern rate regulation.

§ 3017.2 Purpose.

The rules in this part are intended to facilitate public participation in, and promote the transparency of, the development of Commission views.

§ 3017.3 Establishment and scope of public inquiry docket.

(a) On or about 150 days before a Universal Postal Union Congress convenes, the Commission will establish a public inquiry docket to solicit comments on the general principles that should guide the Commission's development of views on relevant proposals, in a general way, and, if available, on specific relevant proposals.

(b) The public inquiry docket established pursuant to paragraph (a) of this section may also include matters related to development of the Commission's views, such as the availability of relevant proposals, Commission views, other documents, or related actions.

(c) The Commission shall arrange for publication in the *Federal Register* of the notice establishing each public inquiry docket authorized under this part.

§ 3017.4 Comment deadline(s).

(a) The Commission shall establish a deadline for public comments upon establishment of the public inquiry docket that is consistent with timely submission of the Commission's views to the Secretary of State. The Commission may establish other deadlines for public comments as appropriate.

(b) The Commission may suspend or forego solicitation of public comments if it determines that such solicitation is not consistent with timely submission of Commission views to the Secretary of State.

§ 3017.5 Commission discretion as to impact of public comments on its views.

The Commission will review timely filed comments prior to submitting its views to the Secretary of State.